

**PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING**  
**THURSDAY, April 19, 2007**  
**CITY HALL, 8<sup>TH</sup> FLOOR**  
**COMMISSION CONFERENCE ROOM**

**BOARD MEMBERS PRESENT**

Peter R. Partington, City Engineer  
Mark Darmanin, Utilities Distribution, and Collections Manager  
Bob Dunckel, Assistant City Attorney III  
Tony Irvine, City Surveyor  
Catherine McCaffrey, Community Inspections Manager  
Anthony Fajardo, Planner II  
Tom Terell, Public Works Maintenance Manager

**STAFF PRESENT**

Victor Volpi, Senior Real Estate Officer  
Barbara Howell, WaterWorks 2011  
Paul Bohlander, WaterWorks 2011  
Adriene Ehle, Planning Division  
Diana Alarcon, Assistant Parking Services Manager  
Sgt. Ernest Pacar, Ft. Lauderdale Police Dept.  
Bob Guilford, Engineering Inspector

**OTHERS PRESENT**

Dennis Miller  
Joe Handley, Craven Thompson & Associates  
Chad Edwards, Craven Thompson & Associates  
Catherine A. Donn, Craven Thompson & Associates  
Larry Livine, Vice President of BrandsMart U.S.A.  
Janna Lhota, Holland & Knight  
Steve Mathews, Homeowner  
Diane Ratcliff, Homeowner  
Alexander Palamora, Homeowner representative  
Christopher McShane  
Travis Woods, Prototype Inc.

**CALL TO ORDER**

Chair Partington called the meeting to order at 10:05 a.m. and stated this was a Committee with the responsibility of advising the City Manager and City Commission on matters connected with City property and public right-of-way.

Following the roll call, it was determined that a quorum was present.

**ITEM ONE: APPROVAL OF MARCH 15, 2007 MINUTES**

**Motion** made by Mr. Darmanin, seconded by Mr. Fajardo, to accept the Minutes of the March 15, 2007 meeting as submitted. In a voice vote, the motion was unanimously approved.

**ITEM TWO: VACATION OF CITY STREETS**

Address or General Location: northwest 18 Avenue and I-95, and the North Fork of New River and Broward Boulevard

Mr. Volpi stated BrandsMart U.S.A., requested a positive recommendation to vacate certain portions of the City-owned right-of-way, as shown on Exhibit A. This development borders NW 18<sup>th</sup> Avenue and I-95 and the North Fork of New River and Broward Boulevard. To accommodate 553,272 square feet of floor area including 401,908 square feet of garage area, it will be necessary to vacate all of the right-of-way along the river and I-95. The developer will, however, create a turn around on NW 18<sup>th</sup> Avenue, north of Broward Boulevard and dedicate all the property that is necessary.

Mr. Volpi read a letter from FDOT to Ms. Dunn of Craven & Thompson Associates, which stated FDOT would not release the requested property due to future transportation needs, specifically the Broward Park and Ridge design issues in conjunction with the East/West study for the proposed rail service. Ms. Dunn stated seven industrial parcels totaling 8.551 acres would be utilized in the project for BrandsMart. The request to vacate was for the right-of-way for NW 20<sup>th</sup> Avenue and NW 2<sup>nd</sup> Street and the 20 foot water main easement. The site would be accessed from 18<sup>th</sup> Avenue and a culdesac would be constructed for the entrance, exit, and truck use. Ms. Dunn reported having filed with DRC and added the property encompassed everything north of the Salvation Army removing the need for the right-of-way to continue. Chairman Partington inquired if the right-of-way had been left after the I-95 interchange had been installed. Mr. Handley of Craven & Thompson Associates replied yes, the Salvation Army does not use it and FDOT acquired 2<sup>nd</sup> Street as a temporary road. Chairman Partington asked if 18<sup>th</sup> Avenue touched the river. Mr. Hadley replied, 20<sup>th</sup> Avenue abutted the river, and a recommendation for the development had been received from the Dorsey River Bend Homeowners Association.

Mr. Darmanin asked if there were new utilities in the area. Mr. Edwards, Craven & Thompson Associates, stated there was a new sewer system on 20<sup>th</sup> Avenue and 2<sup>nd</sup> Street that ended on 18<sup>th</sup> Avenue. WaterWorks 2011 had informed him

that plans for the area included a new pump station at the North end of 18<sup>th</sup> Avenue. Existing water lines run from 20<sup>th</sup> Avenue, there are manholes along 2<sup>nd</sup> Avenue, and the pump station is planned for the bend on the NE corner of 2<sup>nd</sup> Street. Ms. Howell stated the plans for the pump station were complete, and when the plans were reviewed, it was noted the station might be closer to the river. Any relocation would have to be discussed with WaterWorks 2011 and a new easement might be required.

Mr. Terrell stated the 18<sup>th</sup> Avenue right-of-way was used to launch small boats and an aerial force main crossed the river at that location. Chairman Partington stated there were significant questions that could not be answered at present. The focus on one small area facilitating the moving forward of the project is enabling the delay of addressing other problems. The overall site plan shows many issues that would affect city utilities; it would be remiss to make a decision at this point. Mr. Edwards stated the only utility issue was the placement of the pump station and the sewer system served only private properties. Mr. Edwards believed the aerial force main was planned to be re-directed South down 18<sup>th</sup> Avenue across Broward.

Chairman Partington requested committee input. Mr. Irvine stated WaterWorks 2011 was partially funded by consumer accounts and removing several accounts would impact the revenue stream. Mr. Terrell stressed the issue of the location of the pump station and access to the river pointing out there were other uses for the right-of-way. Ms. Lhota affirmed the map showed a viable location for the pump station and stated the City had plans for a canoe dock. Regarding the loss of accounts, she referred to the NW Regional Activity Center Plan which called for consolidation of parcels. Mr. Fajardo stated there were comprehensive plans in regards to the preservation of river access and FDOT transit. The parcels could be redone without taking the right-of-ways out. Ms. Lhota stated that during discussions with owners and the Dorsey River Bend Association preservation of mangroves along the north boundary was agreed upon, and the river access at the end of 18<sup>th</sup> Avenue was something that could be looked at in a new design.

Mr. Dunckel felt there was support for a continuance on the matter. Mr. Irvine felt continuance would be in order until written approval was secured from FDOT. Mr. Darmanin stated the development should be treated as a whole. Mr. Dunckel asked if FDOT did not approve 2<sup>nd</sup> Street, what Plan B was. Ms. Lhota reported there would be continued pursuit with FDOT in regards to 2<sup>nd</sup> Street; the East/West transit is a conceptual unfunded idea. Plan B included design alternatives but NW 20<sup>th</sup> Avenue was critical to the development. It was possible to work around NW 2<sup>nd</sup> Street but not 20<sup>th</sup> Avenue. Mr. Levine stated BrandsMart

was prepared to accommodate any WaterWorks 2011 requirements. Vacation of the right-of-way or installation cost of recently installed pipes would be born by the company. The engineering project could be around FDOT's right-of-ways, if necessary, but if the City did not vacate 20<sup>th</sup> Avenue, the deal would die. Mr. Levine reported BrandsMart would provide 300 new jobs and property/sales tax revenue at approximately 5-6 million dollars a year. The development of the property would enhance the look of the property and the area homeowners were in favor of the project because it would face Broward Boulevard, not the river, leaving the river in the present condition. Mr. Dunckel stated the project would be good for the City but rejected the tactic of eleventh hour decision demands. Mr. Irvine agreed the development would benefit the City but voiced concern at undermining the State's ability to plan traffic and the light rail. The State is on record with potential use for the right-of-way.

Mr. Dunckel requested an explanation of how 20<sup>th</sup> Avenue related to FDOT's problem with vacation of 2<sup>nd</sup> Street. Ms. Donn reported 20<sup>th</sup> Avenue used to access Broward Boulevard before I-95 was widened, when widened 20<sup>th</sup> Avenue was cut off from Broward; it is not legally a road any longer. The State acquired 2<sup>nd</sup> Street for construction use and if negotiations prevail with FDOT, BrandsMart would be the only owners utilizing 2<sup>nd</sup> Street.

Chairman Partington stated that many issues were involved and suggested a continuance, and reminded the Committee that the original request was for consideration of the area outlined in blue on the map and the water main easement. Possibly a complicated motion with provisions would be a solution. Mr. Levine apologized for the timeframe statement and stated the development had incurred costs in excess of 2 million and a decision had to be made. It would be agreeable if the Committee felt a continuance would be in order and if there were a caveat it would be engineered around, but there was no work around 20th Avenue. The water main right-of-way is abandoned and unsightly having been used as a bypass for the overpass construction. Currently the parcels of land are utilized by storage companies, construction equipment, a pickle factory, lift trucks, and a paving truck storage facility.

**Motion** made by Mr. Dunckel, seconded by Mr. Irvine, for continuance of the item and to return to the Property and Right-of-Way Committee after one of three alternatives have been decided upon by Chairman Partington. First option: to have a special meeting with FDOT within 30 days, second option; FDOT to be present at the next meeting, and the third option; a meeting arranged with FDOT, BrandsMart and several Committee members for discussion of FDOT alternatives. Mr. Darmanin amended the motion to include delegates from BrandsMart engineering firm, utilities and WaterWorks would be included in the

meeting to work out the pump station location and infrastructure concerns. The amendment was accepted by Mr. Dunckel and Mr. Irvine. The motion was voted upon by a show of hands and passed unanimously.

**ITEM THREE**            **MAINTENANCE AGREEMENT FOR ALLEY**

Address or General Location: 1208 SW 4 Street

Mr. Volpi stated Christopher McShane would like a positive recommendation to pave the alley next to his property located at 1208 SW 4<sup>th</sup> Street. The alley has not been improved and Mr. McShane stated he is the only person that maintains the alley. Therefore, he would like an agreement between the City and himself so he can pave the alley with regular pavers as a driveway (existing), and grass pavers over the rest of the alley would be constructed.

Mr. McShane addressed the Committee and stated his request for a positive recommendation to enter into a maintenance agreement with the City of Fort Lauderdale to improve the alley at his own expense. The alley was impassable when Mr. McShane purchased the property and he removed a tree and shrubs to make it passable during construction of his home; pavers and grass pavers are planned for improvement and maintenance will be provided with no cost to the City.

Ms. Ingold questioned the use of reinforced pavement if the alley was not going to sustain heavy use and wondered why sod would not be sufficient. Mr. McShane stated the alley had limited use and soil density test results showed sod would be a sufficient covering. Ms. Ingold inquired about what type of a tree was removed and Mr. McShane stated it had been a palm. Mr. Terrell questioned the problems that could arise if the homeowner did not maintain the alley. Mr. Dunckel stated if the homeowner defaulted on the agreement the City would do the maintenance and charge the homeowner. If the homeowner failed to pay, a lien would be put on the property. A problem would occur in enforcement due to limits on a homestead prohibit foreclosure; Mr. McShane would have to waive his homestead rights for this limited purpose to ensure the ability to enforce the agreement. Mr. McShane agreed to waive his homestead rights.

Mr. Matthews reported he owned four lots adjacent to the alley, claimed the photo provided was not a photo of the alley, stated he as well as other residents used the alley to access their property, and if access were denied his property would devalue. Mr. Dunckel stated no access rights would be lost. Mr. Matthews contended Mr. McShane parked in the alley utilizing it as a driveway

and the proposed grass pavers would create another parking area that would block access for other residents. Sailboat Bend does not support Mr. McShane's proposal claiming it was a dispute between landowners. Mr. Matthews stated the alley needed to be contiguous and only one fifth of the alley abuts Mr. McShane's property. Chairman Partington questioned Mr. McShane on the length of his proposed covering of the alley. Mr. McShane stated his house was designed to have parking coming through the easement. The issue has arisen because the City was prepared to lay road rock in the alley and that was an unacceptable covering. The proposal covers the entire alley from the brick pavers through to 4<sup>th</sup> Court.

Chairman Partington summed up the discussion stating the pavers had been approved and appeared to be a private driveway rather than an alley. Concerned citizens fear this reinforced the impression and was encouraging blockage of the access way.

Mr. Guilford stated a permit was approved and signed off on for the brick pavers in the alley. Trees can not be planted in a right-of-way and Mr. McShane planted a tree and subsequently had to remove it, there was a barricade at the end of the drive and had been removed. Mr. McShane had originally submitted a plan to install grass block pavers and it was denied. Sergeant Pacar reported viewing the property and stated signage would enable and simplify 24/7 enforcement of no parking in alley. Ms. Alarcon asserted the pavers were misleading and signage was informational, Code gave the power to enforcement with or without signage.

Ms. McCaffrey questioned the other residents present if the alley covering was either green grass or brick pavers would it be acceptable, and all replied yes as long as it was uniform the length of the alley. Chairman Partington stated the neighbors would be satisfied with either pavers or grass on the entire alley and inquired of Mr. McShane if he would compromise; Mr. McShane stated he would be agreeable to the compromise but would have to investigate the cost of brick pavers. Mr. Darmanin believed if the alley were grass for its entirety the brick pavers previously installed in the driveway would have to be removed. Mr. Terrell suggested deferring to a later date so Mr. McShane could amend the application to be agreeable with all the neighbors. Mr. Darmanin suggested pavers the length of the alley could be cost prohibitive, and inquired if the alley were grass would the maintenance agreement be required since each landowner could mow the adjoining section. Mr. Terrell added if approval were given for the entire alley, other issues such as pitch and drainage would have to be considered. What guarantee is there that the contractor would not change the elevation during alteration. Mr. McShane requested continuance to enable study

of other options. Ms. Ingold added if the application was withdrawn, the pavers would remain, but the neighbors would be unhappy.

Chairman Partington stated it is clear that the Committee would only favor a consistent surface treatment for the alley. This has developed into a problem because of a previous land development manager's agreement to rock the alley; and it could progress with the proposed consistency for the length of the alley. If such an application came before the Committee, it would require a maintenance agreement and additional engineering information, unless the entire alley was changed to grass. Mr. Matthews requested a contiguous treatment for the alley, suggesting the City continue with the plan to rock the alley, with a time constraint.

**Motion** made by Mr. Terrell, and seconded by Ms. McCaffrey to revisit the issue in sixty days. In a voice vote, the motion unanimously passed.

Mr. Irvine acknowledged a timeline was necessary and stated that even if Mr. McShane is not present in 60 days the Committee will take action on the issue. Mr. Dunckel stated disapproval that a permit had been issued to do this in an alley in the first place, inquiring if anything could be done to correct the error. Mr. Terrell stated a similar situation existed on the beach by a guardhouse. Chairman Partington requested Mr. Gilford to research the original permit to lay the pavers and stated the permitted use of a right-of-way for a private driveway created problems. It is a narrow lot, the house was turned to face the alley, and then the alley was utilized as a driveway. Mr. Dunckel favored a policy decision and requested Chairman Partington to make a personal temporary policy not to issue this type of permit until a proper policy could be put in place.

#### **ITEM FOUR**            **FLORIDA POWER & LIGHT (FPL)**

Address or General Location: State Road 7 (441), between SW 14 Street and SW 16 Street

Chairman Partington informed the Committee that a request to take item four first had been received, and if there were no objection, the item would be taken out of order. No objections were voiced.

Barbara Howell and WaterWorks 2011 would like your positive recommendation to grant FPL an easement over and under certain portions of the Peele-Dixie Water Treatment Plant site on 441, as shown on Exhibit B.

Mr. Bohlander informed the Committee the requested easement would allow FPL to bring an underground power feed to the Peele-Dixie Water Treatment Plant. Mr. Dunckel explained a problem with the language in the easement document and requested any text allowing the easement to be used for cable and/or conduit for communication purposes be removed. The Committee must have the authority to negotiate with FPL on above ground facilities. Chairman Partington asked if the easement went through the entire site and Mr. Bohlander stated no the easement did not traverse the site.

**Motion** made by Mr. Darmanin, and seconded by Mr. Terrell, to approve the request based on the text alteration recommended by Mr. Dunckel. In a voice vote, the motion unanimously passed.

There being no further business the meeting adjourned at 12:19 p.m.